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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,833	07/01/2003	Mark Deem	020979-000510US	3863

20350 7590 02/01/2007

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EXAMINER	
GHERBI, SUZETTE JAIME J	
ART UNIT	PAPER NUMBER
3738	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/01/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/612,833	DEEM ET AL.	
	Examiner	Art Unit	
	Suzette J. Gherbi	3738	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *16 January 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1 and 16-42* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1 and 16-42* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☒ Other: *"Blood Tissue"*.

DETAILED ACTION

1. Applicant's RCE and amendments dated 1/16/07 have been received in application serial number 10/612,833. Claims 2-15 have been canceled. All comments have been taken into consideration.

2. The previous claim rejection dated 1/19/06 under 112 first paragraph has been withdrawn based upon the amendment of 1/16/07.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-7, 16-28, 37-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ouriel et al 2004/0117003 in view of Hoffman Jr. et al. 5,197,977 and further in view of Van Tassel et al. 6,719,778.

Ouriel et al. discloses the invention as claimed noting figures 1-13 comprising: A method for treating an aneurysm with an aorta by implanting *a device with a stent*

member and a therapeutic agent-carrying ember such that the stent is anchored within the aneurysm between one or more renal arteries and the therapeutic agent-carrying member extends toward the aneurysm wherein the member release at least one therapeutic agent outwardly to a location on the aortic wall near the (see [0123]); wherein the device has at least one stent member for engaging a portion of a blood vessel in which the aneurysm is located (44); wherein the device has a tubular member coupled with the stent member (30); wherein the device also has a first stent member for anchoring (46) the device and a skirt member; the skirt member having a proximal end (40) and a distal end (16 converging area) the skirt member extending from the stent in a direction towards the aneurysm; wherein the device also has a second stent member coupled with the first stent member (42, 48).

However Ouriel et al. does not limit the type of drugs that can be associated with the device. **Hoffman, Jr. et al.** is being utilized to teach that drugs such as collagen and antibacterial agents such as tetracycline have been known to be affiliated with prosthetic devices particularly to treat aneurysmal repair (see col. 5,lines 59-70 and col. 6,lines 13). It would have been obvious to one having ordinary skill in the art at the time the invention was made to take the invention of Ouriel et al. and incorporate collagen and/or tetracycline as taught by Hoffman, Jr. et al. to the device of Ouriel because both Ouriel suggest in section [0123] that varying biological, physical and/or chemical properties may bee associated with the device and further both Ouriel and Hoffman use bifurcated, polymer based grafts used for the treatment of aneurysms and both polymers and devices are capable of carrying such agents. Also it is obvious that

because the entire device of Ouriel et al. is disclosed as be coated on the external surface that this would also include the skirt, which extends from the "anchor" (stent).

However, to further teach that drugs such as tetracycline are well known to slow dilation and weakening of the wall of the aorta, **Van Tassel t al**. 6,719,778 sates in col. 2, lines 20-25 that: "**Drugs such as tetracycline have been used to prevent abnormal vascular dilation..."The tetracycline compounds protect the elastic fibers of the media by selectively inhibiting the elastolytic activity in the region thereby preventing its expansion".** There fore it is obvious to take the primary structure of Ouriel et al. and apply these drugs as taught by Hoffman Jr. and Van Tassel in order to repair the abdominal aortic aneurysm (AAA) prosthetically and to prevent future rupture of the area.

Response to Arguments

4. Applicant's arguments filed 1/16/07 have been fully considered but they are not persuasive. Applicant has amended the claims and contends that Ouriel does not suggest delivering a therapeutic agent that would slow the dilation and weakening of the aorta wall. The examiner has explained above the Ouriel has been used to teach the structure as claimed. Further Ouriel discloses that biological, physical and chemical components may be associated with the modules. Ouriel does not limit the components nor does he limit the locations of where they are applied. The examiner has introduced Hoffman Jr. and Van Tassel to teach that there are components/agents such as

collagen and tetracycline that have been known to slow the dilation of a weakened aortic wall and these agents have been affiliated with various prosthetic devices. Therefore the 103 rejection is deemed proper.

Applicant further argues that Hoffmans drugs i.e. collagen are released into blood flow and not into tissue or any other structure surrounding the graft. The examiner will point out that blood is a tissue or known as Blood Tissue (see attachment) therefore meets the claim limitation of "...into tissue or any other structure surrounding the graft.." because the collagen as alleged by applicant are released into the flood flow.

Applicant further argues (see page 7 of arguments) that independent claim 21 distinguishes over Ouriel because there would be no equivalent to the now claimed liiac legs which extend through the skirt. The examiner points out that the current amendment to claim 21 deletes all mention of a "skirt" and further does not mention that "legs extend through the skirt".

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Suzette J-J Gherbi whose work schedule is Maxi-Flex off every other Friday and whose telephone number is 571-272-4751.

The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SUZETTE GHERBI
PRIMARY EXAMINER
TECHNOLOGY CENTER 3700

29 January 2007

Blood Tissue

a → red blood cell (rbc)
b → white blood cell (lymphocyte)
c → white blood cell (neutrophil)
d → white blood cell (eosinophil)
e → plasma (matrix)

- found: in the circulatory system

- function: carries oxygen, Carbon dioxide, ions, nutrients and wastes to and from the cells; contains cells for immune response (wbc).

- Try a "Hole Quiz"

BACK